

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

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VDARE FOUNDATION, INC.

Plaintiff,

- against -

Civil Action No. 22-cv-1337 (FJS/CFH)

LETITIA JAMES, in her official capacity
as Attorney General of the State of New York,

DECLARATION

Defendant.

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Andrew J. Frisch hereby declares the following pursuant to 28 U.S.C. § 1746:

1. I am counsel of record in this case for VDARE FOUNDATION, INC.

(“VDARE”) and submit this Declaration in support of VDARE’s opposition to the motion of the Attorney General of the State of New York (the “Attorney General” or the “OAG”) to dismiss this case. I am also counsel of record for VDARE in *James v. VDARE Foundation, Inc.*, N.Y. County Index No. 453196/2022, a special proceeding initiated by the Attorney General in the Supreme Court of the State of New York, County of New York (“state court”), after VDARE initiated this federal case.

2. The documents identified below are true and accurate copies as described.

To maintain consistency, for documents filed by VDARE in state court in its motion to stay the state court proceeding pending this federal case, this Declaration uses the same exhibit letters, except for one inconsistency: Exhibit A hereto is my Affirmation submitted in state court in support of VDARE’s application for a stay; Exhibit A to my Affirmation in state court was VDARE’s complaint filed in this Court.

3. The documents are as follows:

- Exhibit A My affirmation submitted in state court (NYSCEF Docket No. 37);
- Exhibit B An email from the OAG to VDARE's counsel (NYSCEF Docket No. 39);
- Exhibit C A letter from VDARE's counsel to the OAG (NYSCEF Docket No. 40);
- Exhibit D A letter from VDARE's counsel to the OAG (NYSCEF Docket No. 41);
- Exhibit E An email from VDARE's counsel to the OAG (NYSCEF Docket No. 42);
- Exhibit F An email from VDARE's counsel to the OAG (NYSCEF Docket No. 43);
- Exhibit G A letter from the OAG to VDARE's counsel (NYSCEF Docket No. 44);
- Exhibit H A residential lease agreement produced by VDARE to the OAG (NYSCEF Docket No. 45);
- Exhibit I VDARE's CHAR 500 for 2019 (NYSCEF Docket No. 46);
- Exhibit J An email from the OAG to VDARE's counsel (NYSCEF Docket No. 47);
- Exhibit K A letter from VDARE's counsel to the OAG (NYSCEF Docket No. 48);
- Exhibit L An email from VDARE's counsel to the OAG (NYSCEF Docket No. 49);
- Exhibit M A letter from VDARE's counsel to the OAG (NYSCEF Docket No. 50);
- Exhibit N A memorandum of law submitted by the OAG in state court (NYSCEF Docket No. 3);
- Exhibit O A preliminary injunction issued in *Volokh v. James*, 1:22-cv-10195 (S.D.N.Y.);
- Exhibit P The operating agreement for BBB, LLC, which was produced by VDARE to the OAG pursuant to its investigative subpoena;
- Exhibit Q Bylaws for Berkeley Castle Foundation, which was produced by VDARE to the OAG pursuant to its investigative subpoena;
- Exhibit R An order of the Appellate Division, First Department, dated February 8, 2023, staying an order of the Supreme Court of the State of New York, County of New York, pending further briefing;

Exhibit S My affirmation submitted to the Appellate Division, First Department, in support of a stay of the state court's order.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

/s/ Andrew J. Frisch
Andrew J. Frisch

Executed on February 22, 2023